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AO 91 (Rev. 11/11) Criminal Complaint

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UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Benjamin Sizemore

Case No. 21-30280

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 2021 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

Code Section

18 U.S.C. § 922(g)(1)

Offense Description

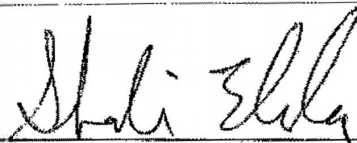
Felon in Possession of Ammunition

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: June 7, 2021City and state: Detroit, MI

Complainant's signature

Shadi Elreda, Special Agent

Printed name and title



Judge's signature

Anthony P. Patti, United States Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A CRIMINAL COMPLAINT

I, Shadi G. Elreda, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of a criminal complaint charging Benjamin D. Sizemore with felon in possession of ammunition, in violation of 18 U.S.C. § 922(g)(1).
2. I am a Special Agent (“SA”) with Homeland Security Investigations (“HSI”), United States Department of Homeland Security, and have been so employed since May 2018. I am currently assigned to the HSI Detroit office, Global Trade Task Force-Counter Proliferation Investigations (GTTF-CPI) which is ~~tasked with investigating violations of U.S. law involving illegal~~ exports/imports of goods being smuggled into and from the United States under various sections of the U.S. Criminal Code.
3. I am a graduate of the Federal Law Enforcement Training Center (“FLETC”) at Glynco, GA and Artesia, NM. At FLETC, I was trained in, among other things, criminal investigative techniques, and Counter Proliferation investigations. Prior to being a Special Agent with HSI, I was employed by the United States Federal Air Marshal Service (“FAMS”) as a Federal Air Marshal from December 2010 to May 2018. As a Federal Air Marshal, I worked in numerous law enforcement capacities to include serving as a Task Force Officer with the Joint Terrorism Task Force (“JTTF”) in Detroit, Michigan where I investigated terrorism related crimes from February 2016 to May 2018. Prior to being with the FAMS, I graduated from the South Carolina Criminal Justice Academy and served as a Patrol Officer with the

Myrtle Beach Police Department (“MBPD”) from November 2008 to December 2010.

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from witnesses, other special agents, law enforcement officers, documents, open source and government databases. This affidavit contains the information necessary to support probable cause and does not contain every material fact that I have learned during the course of the investigation; however, no information known to me that would tend to negate probable cause has been withheld from this affidavit.

PROBABLE CAUSE

The 2019 Investigation and Criminal Case

5. In October of 2019, Homeland Security Investigations (HSI) Detroit Global Trade Task Force (GTTF) received information from Customs and Border Protection (CBP) in reference to a seized “Suppressor,” which is another name for a silencer. CBP seized a package manifested as an “Aluminum Fuel Trap” that was shipped from China and destined to Benjamin Sizemore (Sizemore) at 19373 Omira Street, Detroit, MI 48203 (The Omira Address).

6. Information received from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) states that certain commercially available items such as cleaning solvent traps and automotive oil/fuel filters are sometimes used to assemble firearm suppressors. Based on this information, HSI Detroit initiated an investigation.

7. During the investigation into Sizemore, HSI Detroit learned that the item seized by CBP and destined for Sizemore was in fact a firearm suppressor. Moreover, HSI Detroit also learned that Sizemore was a convicted felon based on a 2002 conviction for receiving and concealing stolen property of motor vehicle worth more than \$20,000.

8. During the 2019 investigation, HSI Detroit also learned that Sizemore was investigated by the ATF for purchasing illegal Glock full auto selector switches. Moreover, Sizemore had made several firearm related purchases from various weapon part companies.
9. On November 19, 2019, HSI Detroit, with the assistance of the ATF and the Detroit Police Department (DPD), executed a federal search warrant at the Omira Address. Upon execution of the search warrant and search of the residence, agents discovered and seized amongst other items; one (1) assault style .22 Caliber rifle; one (1) Glock 19 handgun; one (1) Polymer80 handgun w/ silencer attached; one (1) Polymer80 handgun; one (1) Smith and Wesson M&P .40 caliber handgun; approximately 1,147 rounds of various types of rifle and handgun ammunition; approximately eight (8) suspected firearm silencers; approximately thirty (30) rifle/handgun magazines; one (1) ballistic plate; and various types of firearm parts/accessories and suspected firearm making tools.
10. On the same date of the execution of the search warrant, Sizemore was placed under federal arrest and charged with felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1) and smuggling good into the United States contrary to law, in violation of 18 U.S.C. § 545. (See Eastern District of Michigan Case 20-cr-20012-VAR-EAS).
11. On April 6, 2020, the United States District Court of the Eastern District of Michigan held a hearing on Sizemore's Motion for Revocation of Detention Order. Sizemore was granted and released on a \$10,000 Unsecured Appearance Bond and to the third-party custody of his father. Sizemore currently remains on bond.

The 2021 Investigation

12. On March 14, 2021, Homeland Security Investigations (HSI), Global Trade Task Force (GTTF), received information from a source of information (SOI) about two suspicious purchases of M-16 Lower Parts Full Auto Kits destined to a Harold Nero at 15200 W. 8 Mile Rd, Oak Park, MI. That address is a storage facility called Storage Sense.
13. According to the SOI, these parts are for a M-16 fully automatic rifle. Your affiant knows that it is illegal to possess a fully automatic rifle without a license. Possessing these parts by themselves is not illegal but using the parts to manufacture an unregistered fully automatic rifle may constitute violations of 26 U.S.C. § 5861(d), 5861(f) possession of unregistered firearms.
14. The first order, placed on November 12, 2020, was for two M-16 Lower Parts Kits with full auto selectors. The credit card used to place this order was declined. The telephone provided was 586-359-8177 and the email address provided was alexandertransport19@gmail.com.
15. The second order, placed on January 19, 2021, was for four M-16 Lower Parts Kits with full auto selectors. This purchase was approved. The telephone number provided was 313-290-5820 and the email address provided was alexandertransport19@gmail.com. According to the SOI, the SOI conducted an open source check of the name Harold Nero (Nero) and discovered that a Harold Nero was a wanted fugitive out of Detroit, MI and so the SOI felt that there was something suspicious about these purchases.
16. Following the placement of the second order, on January 19, 2021, the SOI received an email from alexandertransport19@gmail.com, which stated the following: "I emailed just now about my # being wrong. I didn't tell u who I am...My name is Harold Nero." According to the SOI, the number that "Nero" was referring to was 313-290-5820. The purchaser used phone number 586-359-8177 to send text messages to the SOI. SOI's phone identified

"LABATTTS BILL" as the sender of the text messages; however, the subject stated his name was Harold Nero in the text messages. Furthermore, on a different date, Harold Nero began to use a different phone number (313-955-2113) to contact the SOI, the SOI's phone also identified "LABATTTS BILL" as the sender of those text messages. Based on the information provided by the source—including the use of different names (Harold Nero and Bill Labatts), the ordering of parts for possible use in a machinegun, and the different phone numbers—HSI Detroit launched an investigation into the purchaser of the M16 kit.

Bill Labatts

17. Open source and government database checks for the name Bill Labatts (Labatts) identified multiple shipments to consignee name Bill Labatts at the Omira Address using phone number 419-290-5820. These shipments included sporting wares and a rifle sling plate mount adaptor. The same phone number was used by Sizemore for shipments to the Omira Address in 2019. According to commercial databases, the name Bill Labatts is also linked to address 19381 Omira St., Highland Park, MI, which is owned by Sizemore's suspected home renovation company, Top Shelf Properties, LLC.
18. An HSI Detroit Criminal Analyst was unable to identify any Michigan subjects with a variation of the name Bill/William Labatts in law enforcement, open source, or Secretary of State databases.
19. In April 2021, an HSI Detroit Criminal Analyst conducted an open source check through YouTube and discovered a CRS Firearms Video regarding solvent traps. Coloma Resale, or CRS as it is known, is a resale store in Coloma, Wisconsin with over 113,000 followers on its YouTube channel. Video comments by a Bill Labatts were discovered. The comments showed a post date of "6 months ago" (in other words, at approximately November 2020). The YouTube comments by Bill Labatts included the following:

“You are mistaken about the solvent traps. On November 19th, 2019 homeland security, the atf, the Detroit police kicked in my door because of these exact items. The Discovery paperwork on my case is 1600 pages. The search warrant is 37 pages long. They say if there is a center mark of any type showing the center, it’s a silencer. Even if it’s just the tube”

“And he’s WRONG. I have aatf case rt now from the atf getting one of these out of the mail before it arrived. I was in jail for 5onths before a got a bond. So they allow me to fight my case from home. They don’t have to show intent for an nfa item u didn’t pay ur 200 tax stamp”

20. As mentioned in paragraph 9, on November 19, 2019, HSI Detroit with assistance from the ATF and DPD executed a federal search warrant at the Omira Address and arrested Sizemore. Moreover, the other information in the YouTube posts is consistent with Sizemore, including the length of the search warrant and the fact that Sizemore was released on bond after spending several months detained.

21. Furthermore, a June 3, 2020, post by user "bill labatts" was also identified on the website ramforum.com. The profile of "bill labatts" lists his location as Michigan and lists a vehicle as a 2009 Dodge Ram truck. According to database checks, from May 26, 2020 to July 2, 2020, there was a 2009 Dodge Ram registered to D&J Construction, LLC at the Omira Address.

Harold Nero

22. As indicated in paragraph 12, the person who ordered the lower part kits for the M16 used the name Harold Nero. Law enforcement database checks revealed that Harold Nero, XX/XX/1975, was arrested in June 2017 on federal narcotics and sex trafficking charges related to an HSI Detroit investigation. Nero has been in custody at the Sanilac County Jail since his arrest and is currently awaiting further court proceedings. No additional subjects were identified by the name Harold Nero in Michigan per law enforcement or Secretary of State information.

Telephone Number 586-359-8177

23. Commercial database checks show that phone number 586-359-8177 is associated with Austin Alexander (Alexander), XX/XX/1996, address 19400 Omira St., Highland Park. That address is across the street and approximately three houses down from the Omira addresses used by the name Bill Labatts and Sizemore.
24. According to information received from the Michigan Department of Corrections, Alexander's listed address is in Sandusky, Michigan. Furthermore, Alexander is on probation through Sanilac County for two 2019 felonious assault with dangerous weapons offenses.

Sanilac County Jail

25. Checks with the Sanilac County Jail revealed that Sizemore, Nero, and Alexander were housed in the Sanilac County Jail at the same time. According to the Sanilac County Jail, all three were in the S-Pod together. The S-Pod is a thirty-man, open style dorm that is not locked down at all. Inmates are able to walk around and socialize with one another.
26. Specifically, Sizemore was housed in the Sanilac County Jail from November 27, 2019 to April 7, 2020. Nero entered the Sanilac County Jail on November 16, 2018, where he is still currently housed, and Alexander was housed in the Sanilac County Jail from February 15, 2020 to April 2, 2020.
27. During the course of this investigation, HSI Detroit served multiple summons on several companies to include but not limited to Storage Sense, T-Mobile, Bear Creek Arsenal, Ammunition Store, NDZ Performance, FedEx, MDX Arms and ED Brown.

Storage Sense

28. On May 10, 2021, your affiant served a summons on Storage Sense located at 15200 W. 8 Mile Road, Oak Park, MI 48237. Your affiant

made contact with both the manager and assistant manager of Storage Sense who provided your affiant with customer documents associated with mailbox 34.

29. Your affiant reviewed these documents and discovered that one of the documents was a United States Postal Service (USPS) "Application for Delivery of Mail Through Agent". The individuals authorized to receive mail on this application are Benjamin Sizemore, David Sizemore, and Austin Alexander. The address provided was 19373 Omira Street, Detroit, MI 48203, the telephone number provided was 586-359-8177. Also provided was a copy a Michigan driver license bearing number S256085135184. This MI DL was in the name of Benjamin David Sizemore, date of birth XX/XX/1981. A copy of a social security card with the name of Benjamin D Sizemore was also provided and viewed by your affiant. Furthermore, your affiant was provided and viewed a document which tracks packages arriving to Storage Sense. This list includes the mailbox number, date the package was received, the tracking number of package and the customer initial.
30. Both the assistant manager and manager confirmed that the individual picking up the packages for mailbox 34 was the individual in the driver's license photo of Benjamin Sizemore.
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31. The manager further stated that a Harold Nero also receives packages to box 34 and that Sizemore picks up those packages. On a later date, Storage Sense provided HSI Detroit with an excel sheet, which shows that box 34 is associated with Benjamin D. Sizemore, David Sizemore, Harold Nero, and Austin Alexander. According to the manager, Sizemore was advised that he would no longer be able to retrieve packages in other individuals' names unless he provided their identification to Storage Sense.
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32. On May 14, 2021, your affiant received further information from Storage Sense. According to Storage Sense, Sizemore picked up approximately six (6) packages on that date. Sizemore was driving a gray pickup truck with an out of state license plate. According to the Storage Sense manager, the license plate affixed to the pickup truck was white and red, which led the manager to believe that it may be an Ohio license plate.

Storage Sense provided your affiant with video recordings of a gray pickup truck arriving and parking in the Storage Sense parking lot. According to the videos sent to your affiant, it appears that the gray pickup truck is a Dodge Ram.

33. According to Storage Sense, the majority of the packages that day were in Sizemore's name but one package that Sizemore picked up was in the name of Harold Nero. The package in Nero's name was sent from MDX Corp, P.O Box 70809 Riverside, California 92513. Open source checks of MDX Corp shows that MDX Corp is MDX Arms, a weapon part store.

34. According to Storage Sense, on June 1, 2021, Sizemore retrieved several packages from Storage Sense. Some packages were in the name of Benjamin Sizemore and one of the packages was in the name of Harold Nero. The package in the name of Harold Nero was the M-16 weapon parts purchased from the SOI on January 19, 2021 (see paragraph 15). Your affiant matched the USPS tracking number (9410811202537464985368) of the package shipped from the SOI and the tracking number on a tracking list provided by Storage Sense. These tracking numbers were the same and the customer initials were "BS". According to Storage Sense, Sizemore was driving a black four door sedan.

35. On June 4, 2021, your affiant and an HSI Task Force Agent (TFA) made contact with Storage Sense in reference to the packages retrieved by Sizemore on June 1, 2021. While at the Storage Sense facility, your affiant and a HSI TFA viewed Storage Sense CCTV footage and observed an individual matching the description of Sizemore arrive in a black four door sedan. This sedan appears to be a Volvo. According to Storage Sense, when Sizemore was looking at the package in the name of Harold Nero, he noticed a federal warning label. Sizemore replied with "What the hell is this?" and stated, "I don't think this is mine". When Storage Sense told Sizemore that it was "Harold Nero", Sizemore stated "I ordered this back in February". Your affiant knows that the package containing M-16 weapon parts and shipped to Storage Sense by the SOI had an export warning label affixed to the outside of the package.

36. Your affiant was advised that Sizemore received another package to Storage Sense on June 3, 2021. Your affiant viewed the UPS Ground label affixed to the package and discovered that the label was in the name of Benjamin Sizemore. Furthermore, on the bottom of the label it shows "REF2: ALEXANDERTRANSPORT19@GMAI". This label is consistent with the email address used by Sizemore when making the purchase of the M16 kit.

MDX Arms

37. On May 20, 2021, HSI Detroit received Summons results from MDX Arms. Your affiant reviewed these results and discovered that one (1) "Polymer 80 PF940SC 80% Textured Pistol Frame Kit for Glock G26/G27" was purchased by a Harold Nero on May 12, 2021, the address provided was 15200 eight mile rd, Oak Park, MI, the telephone provided was 313-290-5820 and the email provided was alexandertransport19@gmail.com.

38. The total amount of this purchase was \$157.99. Your affiant checked the USPS tracking number through the USPS website and discovered that this package was delivered to Oak Park, MI on May 14, 2021.

AmmunitionStore.com

39. On May 19, 2021, your affiant received Summons results from ammunitionstore.com. Your affiant reviewed these results and discovered that on March 31, 2021, a purchase of ammunition was made by a Harold Nero. The address provided was 15200 eight mile rd, Oak Park, MI, the telephone provided was 313-290-5820 and the email address provided was alexandertransport19@gmail.com. The total amount for the purchase was \$201.27.

40. The ammunition ordered were for four (4) boxes of "223 .556x45 Ammo 55gr FMJ Wolf Performance 20 Round Box", one (1) box of "5.56x45 Ammo 62gr M855 Wolf Performance, Brass Cased 20 Round Box", one (1) box of "9mm 9x19 Ammo 115gr FMJ Remington Range (T9MM3B) 100 Round Box" and one (1) box of "45 ACP Ammo 230gr FMJ CCI Blazer Brass (5230) 50 Round Box". Your affiant reviewed the FedEx

tracking information provided and discovered that this order was delivered to Oak Park, MI on April 7, 2021. This package was shipped from Massillon, Ohio.

OpticsPlanet

41. On June 1, 2021, HSI Detroit received summons results from OpticsPlanets, Inc. These results included invoices for purchases made through OpticsPlanets and DVOR (a division of OpticsPlanets). Your affiant reviewed seven (7) of these invoices and discovered that they all shared the same customer ID of 7461222.
42. An invoice dated September 19, 2020, shows that the "SOLD TO" was Harold Nero, 19363 Omira Street, Highland Park, MI 48203 and the "SHIP TO" was Harold Nero, 15200 W 8 Mile Rd, Oak Park, MI 48237. The email address for this order was alexandertransport19@gmail.com and the telephone number was 585-290-5820. This order included the purchase of weapon parts and ammunition. According to the results, these items did not ship.
43. An invoice dated February 4, 2021, shows that the "SOLD TO" was Harold Nero, 19363 Omira Street, Highland Park, MI 48203 and the "SHIP TO" was Benjamin Sizemore, 15200 West 8 Mile Srv Rd, Oak Park, MI 48237. The email address for this order was alexandertransport19@gmail.com. The phone number for the Sold to was 585-290-5820 and the phone number for the Ship to was 586-359-8178. This order included the purchase of various weapon parts. According to the results, these items did not ship.
44. An invoice dated March 17, 2021, shows that the "SOLD TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237 and the "SHIP TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237. The email address for this order was alexandertransport19@gmail.com and the telephone number was 585-290-5820. This order included the purchase of a weapon part. According to the results, this item did ship.
45. An invoice dated April 7, 2021, shows that the "SOLD TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237 and the "SHIP TO" was

Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237. The email address for this order was alexandertransport19@gmail.com and the telephone number was 313-290-5820. This order included the purchase of a weapon part, pistol and rifle ammunition. According to the results, these items did ship. Your affiant viewed the tracking numbers provided by OpticsPlanet for these items and discovered that the ammunition arrived at Oak Park, MI on April 29, 2021. Your affiant further discovered that this tracking number was listed on the tracking list provided by Storage Sense and shows that the package was received on April 29, 2021. The initials observed on the customer initial section is "BS".

46. An invoice dated April 11, 2021, shows that the "SOLD TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237 and the "SHIP TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237. The email address for this order was alexandertransport19@gmail.com and the telephone number was 585-290-5820. This order included the purchase of various types of weapon parts. According to the results, these items did ship.

47. An invoice dated April 14, 2021, shows that the "SOLD TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237 and the "SHIP TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237. The email address for this order was alexandertransport19@gmail.com and the telephone number was 585-290-5820. This order included the purchase of various types of weapon parts. According to the results, these items did ship.

48. An invoice dated April 15, 2021, shows that the "SOLD TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237 and the "SHIP TO" was Harold Nero, 15200 eight Mile Rd, Oak Park, MI 48237. The email address for this order was alexandertransport19@gmail.com and the telephone number was 585-290-5820. This order included the purchase of a weapon part. According to the results, this item did ship.

T-Mobile

49. On May 13, 2021, your affiant reviewed Summons results from T-Mobile for information associated with telephone number 586-359-8177. The subscriber information provided by T-Mobile for captioned number is a Bill Labatts with address of 19400 Omira Street, Highland Park, MI. As mentioned in paragraph 23, commercial database checks show that this number is also associated with an Austin Alexander.
50. Furthermore, an HSI Detroit Criminal Analyst conducted a review of the toll records of telephone number 586-359-8177 and provided your affiant with those results. HSI Detroit conducted a search of certain telephone numbers in contact with captioned number through commercial databases and discovered that telephone number 586-359-8177 has been in contact with telephone numbers associated with Sizemore's parents, and the aunt of Sizemore's children.

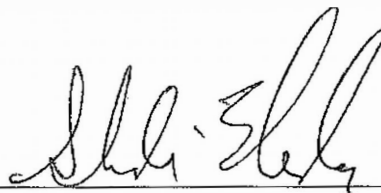
Surveillance

51. On April 15, 2021, HSI Detroit Special Agents and Task Force Agents conducted surveillance at the Omira Address. Sizemore was observed leaving the residence and driving a gray Dodge Ram pickup truck bearing Ohio license plate JBB5723. On April 8, 2021, your affiant observed and took a photo of a gray Dodge Ram parked at the Omira Address and it appears that the Dodge Ram matches the Dodge Ram arriving and parking at Storage Sense.
52. Furthermore, a Gray Dodge Ram has been observed parked at 19373 Omira Street on May 17, 2021 and June 1, 2021.
53. Commercial database checks revealed that Ohio license plate JBB5723 is registered to a 2009 Dodge Ram 1500, David W. Sizemore, 10200 N Shannon Hill Dr, Perrysburg, OH 43551. David Sizemore is Benjamin Sizemore's father.

54. On June 3, 2021, a HSI TFA attempted to locate and verify that 19363 Omira Street, Highland Park, MI, an address associated with Harold Nero exists. A search for this address did not yield any results. However, during this search, the HSI TFA observed an individual matching the description of Sizemore outside of 19373 Omira Street, which is known to be Sizemore's residence. Also observed was a Gray Ram pickup truck parked in the driveway and a black Volvo bearing Ohio license plate JKC 2019 parked in the street directly in front of 19373 Omira Street.
55. Law Enforcement Database checks revealed that Ohio license plate JKC2019 is registered to a 2004 Volvo S60, Top Shelf Properties, 10200 N Shannon Hills Dr, Perrysburg, OH.
56. As mentioned in paragraphs 14 and 16, telephone number 586-359-8177 has been used to make purchases and communicate with a weapon parts company. Furthermore, the individual sending the text messages has claimed to be Harold Nero. This investigation has indicated that Harold Nero has been housed at the Sanilac County Jail throughout these transactions.
57. On April 7, 2021 and April 29, 2021, shipments of ammunition were delivered to Storage Sense in the name of Harold Nero who is associated with mailbox 34. Based on the information received throughout this investigation, it is believed that Sizemore retrieved the packages containing ammunition.
58. Information received from summons results has indicated that Sizemore retrieves packages associated with mailbox 34 and these packages are sometimes in the name of Benjamin Sizemore or Harold Nero. HSI Detroit's investigation to date has shown that no one other than Sizemore retrieves these packages.

CONCLUSION

59. Based on the above information, there is probable cause to believe that Sizemore, a convicted felon, has possessed and received ammunition which had been shipped in interstate commerce, in violation of 18 U.S.C. § 922(g)(1).



Shadi G. Elreda, Special Agent
Homeland Security Investigations

Subscribed to and sworn before me in my presence and/or by reliable electronic means, this 7th day of June, 2021



Anthony P. Patti
United States Magistrate Judge
Eastern District of Michigan